



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF  
GENERAL COUNSEL

August 27, 2019

Mr. Ren Smith  
Working Narratives  
DEPT MR 38759  
411A Highland Avenue  
Somerville, Massachusetts 02144-2516

Re: Freedom of Information Act Appeal No. EPA-HQ-2017-010708 (Request No. EPA-R4-2017-008475)

Dear Mr. Smith:

I am responding to your August 7, 2017 Freedom of Information Act (FOIA) appeal. You appealed the August 2, 2017 decision of Keith R. Mills (decision) of the U.S. Environmental Protection Agency (EPA or Agency), to fully grant the request you submitted to EPA on June 15, 2017. Specifically, you appealed the integrity of the Agency's search for responsive records. Your request sought, "[a]ll reports, evaluations, test results, proposed testing, and related materials regarding water supplies and usage in Wilmington, North Carolina, created since January 1, 2016." The decision stated that your request was fully granted, and the Agency provided 16 pages of responsive records.

I have carefully considered your request, EPA's decision, and your appeal. For the reasons set forth below, I have determined that your appeal of the Agency's search should be, and is, granted.

Your appeal challenges EPA's search for records in response to your request. I have determined that the initial search for records was deficient in two ways. First, EPA Region 4's initial search did not address potentially responsive email correspondence. Region 4 has since conducted a search of email correspondence and identified three responsive records. They are being produced to you in full at this time. Second, EPA's Office of Research and Development (ORD) may have records responsive to your request. ORD was not consulted during the Agency's initial search for records. Your request is now being remanded to ORD so that the office can conduct a search for records responsive to EPA-R4-2017-008475. You will receive a determination from ORD after they have processed your request.

This letter constitutes EPA's final determination on this matter. Pursuant to 5 U.S.C. § 552(a)(4)(B), you may obtain judicial review of this determination by filing a complaint in the United States District Court for the district in which you reside or have your principal place of business, or the district in which the records are situated, or in the District of Columbia. Additionally, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) within the National Archives and Records Administration was created to offer mediation services to resolve disputes

between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; e-mail, [ogis@nara.gov](mailto:ogis@nara.gov); telephone, 202-741-5770 or 1-877-684-6448; and fax, 202-741-5769.

Should you have any questions concerning this matter, please contact Peter Bermes of my staff at [bermes.peter@epa.gov](mailto:bermes.peter@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Kelly", with a long, sweeping horizontal line extending to the right.

Lynn Kelly  
Acting Assistant General Counsel  
Information Law Practice Group  
General Law Office

Enclosures: R4 Supplemental Production EPA-R4-2017-008475.pdf

cc: Beverly H. Banister, Acting Deputy Regional Administrator, Region 4  
Andrea Hines, Region 4 FOIA Officer  
Rebecca Clausen, Office of Research and Development FOIA Officer